

Notice of Allowability

Application No.

09/682,249

Examiner

Marina Lamm

Applicant(s)

GRUNE, GUERRY L.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/8/04 and interviews.
2. ☒ The allowed claim(s) is/are 1,3,7,9-12 and 25.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Grune on 9/20/04.

The application has been amended as follows:

Please Cancel Claims 13-24.

Please amend the remaining claims as follows:

Claim 1. A non-endocrine disruptive, cytoprotective sun-block composition consisting of:
(a) an oil-dispersible inorganic sunscreen compound selected from the group consisting of titanium dioxide, zinc oxide and combinations thereof;
(b) an emollient which is a cold-pressed aloe barbadensis Miller;
(c) water;
(d) stearic acid or a salt thereof;
(e) a carrier oil which is an essential oil; and
(f) optionally, (1) additional emollient selected from the group consisting of vegetable oils, silicones and mixtures thereof; (2) butyl-methoxydibenzoylmethane; (3) antioxidant and/or (4) fragrance,
wherein the carrier oil and the emollient(s) compose from about 2% to about 20% of the total composition weight and the emollient(s) is(are) present in the composition in a ratio to the carrier of from about 1:1 to about 3:1, and
wherein said composition is capable of protecting skin from harmful effects of sunlight and ultraviolet light.

Claim 3. The sun-block composition of Claim 1, wherein the cold-pressed aloe barbadensis Miller contains cytoprotective glucose-rich mannose-containing oligosaccharides.

Claim 7. The sun-block composition of Claim 1, wherein said titanium dioxide has a primary particle size of less than about 300 nm in diameter.

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Claim 9. The sun-block composition of Claim 1, wherein said composition has a pH of at least 5.

Claim 10. The sun-block composition of Claim 9, wherein said pH is from approximately 6.5 to approximately 8.5.

Claim 11. The sun-block composition of Claim 1, wherein said composition has a Sun Protection Factor (SPF) of at least 10.

Claim 12. A method of protecting mammalian skin from harmful effects of ultraviolet-A and ultraviolet-B radiation and enhancing skin immunocompetency comprising topically applying to skin in need thereof an effective amount of the non-endocrine disruptive, cytoprotective sun-block composition of Claim 1.

Claim 25. A method of making the non-endocrine disruptive, cytoprotective sun-block composition of Claim 1 comprising:

- (a) adding water, cold-pressed aloe, and zinc oxide or titanium dioxide or both in combination to a vessel;
- (b) then adding the oil component;
- (c) then mixing said composition in said vessel.

Allowable Subject Matter

2. Claims 1, 3, 7, 9-12 and 25 are allowed.

3. The following is an examiner's statement of reasons for allowance: The claims are allowable over the cited prior art because the prior art does not teach, disclose nor make obvious the claimed composition consisting of: (a) an oil-dispersible inorganic sunscreen compound selected from the group consisting of titanium dioxide, zinc oxide and combinations thereof; (b) an emollient which is a cold-pressed aloe barbadensis Miller; (c) water; (d) stearic acid or a salt thereof; (e) a carrier oil which is an essential oil; and (f) optionally, (1) additional emollient selected from the group consisting of vegetable oils, silicones and mixtures thereof; (2) butyl-methoxydibenzoylmethane; (3)

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antioxidant and/or (4) fragrance. The closest cited prior art (Luckenbach et al.) teaches sunscreen compositions containing from about 2 to about 25% of an inorganic sunscreen agent such as titanium dioxide, zinc oxide or mixtures thereof, from about 0.5 to about 10% of an anionic emulsifier such as sodium stearate, and from about 0.5 to about 10% of an oil component comprising a carrier oil and an emollient, but fails to teach cold-pressed aloe barbadensis and essential oil of the instant claims. Further, the compositions of Luckenbach et al. contain additional ingredients (e.g. fatty acid esters, polymeric thickeners, disodium EDTA, etc.), which are outside the scope of the instant claims. Therefore, the instant claims are patentably distinct from the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (571) 272-0618. The examiner can normally be reached on Mon-Fri from 11am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached at (571) 272-0887.

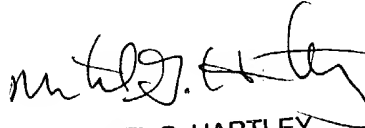
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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ml

9/20/04


MICHAEL G. HARTLEY
PRIMARY EXAMINER